

FACTS

Matt Rosendale is a Montana candidate for United States Senate.¹ Matt Rosendale for Montana is Rosendale's principal campaign committee, and Cabbell Hobbs is the committee's treasurer.² Rosendale won Montana's Republican Primary, which occurred on June 5, 2018.³

On July 13, 2018, Respondents filed their July Quarterly Report, which itemized contributions received both before and after the date of the primary.⁴ The report reveals that, after the date of the primary election, Respondents continued to allocate a substantial amount of incoming contributions to the primary election or otherwise accept contributions beyond the applicable limits.⁵ The below table summarizes Respondents' treatment of certain contributions received after the date of the primary:

Contributor Name	Contribution Date	Contribution Amount	Respondents' Stated Action
Scott Banister	6/20/18	\$8,000	Redesignated \$2,700 to the primary; \$2,700 to the general; and \$2,600 to 2014 debt retirement
Charles Tate	6/29/18	\$8,000	Redesignated \$2,700 to the primary; \$2,700 to the general; and \$2,600 to 2014 debt retirement
Stacy Siebel	6/30/18	\$8,000	Redesignated \$2,700 to the primary; \$2,700 to the general; and \$2,600 to 2014 debt retirement
Thomas Siebel	6/30/18	\$8,000	Redesignated \$2,700 to the primary; \$2,700 to the general; and \$2,600 to 2014 debt retirement

¹ Matt Rosendale, FEC Form 2, Statement of Candidacy (amended July 13, 2018), <http://docquery.fec.gov/pdf/972/201807180200563972/201807180200563972.pdf>.

² Matt Rosendale for Montana, FEC Form 1, Statement of Organization (amended July 13, 2018), <http://docquery.fec.gov/pdf/236/201807180200564236/201807180200564236.pdf>.

³ 2018 Primary Election - June 5, 2018, MONT. SEC'Y OF STATE, <http://mtelelectionresults.gov/resultsSW.aspx?type=FED&map=CTY> (last updated June 29, 2018).

⁴ Matt Rosendale for Montana, FEC Form 3, July Quarterly Report (July 13, 2018), <http://docquery.fec.gov/pdf/762/201807180200563762/201807180200563762.pdf>.

⁵ See generally *id.*, Schedule A.

Gleni Karvela	6/15/18	\$8,000	Redesignated \$2,700 to the primary; \$2,700 to the general; and \$2,600 to 2014 debt retirement
George Macricostas	6/15/18	\$8,000	Redesignated \$2,700 to the primary; \$2,700 to the general; and \$2,600 to 2014 debt retirement
Steven Arntzen	6/18/18	\$5,400	Redesignated \$2,700 to the primary; \$2,700 to the general
David Sokol	6/20/18	\$5,400	Redesignated \$2,700 to the primary; \$2,700 to the general
Dean Buntrock	6/28/18	\$5,400	Redesignated \$2,700 to the primary; \$2,700 to the general
Heywood Fralin	6/30/18	\$5,400	Redesignated \$2,700 to the primary; \$2,700 to the general
Lawrence Finch	6/29/18	\$5,000	Redesignated \$2,500 to the primary; \$2,500 to the general
Stephen Langlas	6/19/18	\$8,100	Reattribution/redesignation requested
Kenneth Garschina	6/22/18	\$5,400	Reattribution/redesignation requested
Philip Purcell	6/26/18	\$5,000	Reattribution/redesignation requested
Jason Ellsworth	6/26/18	\$5,000	Reattribution/redesignation requested
Leslie Edelman	6/29/18	\$5,000	Reattribution/redesignation requested
Earl Kendrick	6/22/18	\$5,400	No indication of Respondents' reaction
Randy Kendrick	6/22/18	\$5,400	No indication of Respondents' reaction
James Haslam	6/30/18	\$5,400	No indication of Respondents' reaction
Natalie Haslam	6/30/18	\$5,400	No indication of Respondents' reaction
Dennis Menholt	6/30/18	\$5,400	No indication of Respondents' reaction
Linda Menholt	6/30/18	\$5,400	No indication of Respondents' reaction
Harvey Golub	6/30/18	\$3,000	No indication of Respondents' reaction

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Holloway Frost	6/30/18	\$2,600	Brought election cycle to date total to \$7,600; no indication of Respondents' reaction
Kathaleen Wall	6/30/18	\$2,600	Brought election cycle to date total to \$7,600; no indication of Respondents' reaction
Alamo PAC	6/20/18	\$15,000	Redesignated \$5,000 to the primary; \$5,000 to the general; \$5,000 to 2014 debt retirement
Common Values PAC	6/20/18	\$10,000	Redesignated \$5,000 to the primary; \$5,000 to the general
Great America Committee	6/20/18	\$10,000	\$5,000 designated to the primary; no indication of Respondents' reaction
Bluegrass Committee	6/25/18	\$10,000	Redesignated \$5,000 to the primary; \$5,000 to the general
Making Business Excel PAC	6/26/18	\$10,000	Redesignated \$5,000 to the primary; \$5,000 to the general
Tenn PAC	6/28/18	\$10,000	Redesignated \$5,000 to the primary; \$5,000 to the general
Fund for a Conservative Future	6/30/18	\$10,000	Redesignated \$5,000 to the primary; \$5,000 to the general
Rely on Your Beliefs Fund	6/30/18	\$10,000	Redesignated \$5,000 to the primary; \$5,000 to the general
NRA Political Victory Fund	6/28/18	\$9,900	\$4,950 designated to primary; no indication of Respondents' reaction ⁶

At the close of the reporting period, Respondents had \$639,163.90 of cash on hand and \$284,026.80 in debt.⁷ However, most of the debt is from the 2014 primary election, and it is unclear from the report whether the debt owed to vendors from the 2018 election cycle is from obligations incurred in connection with the primary or the general election.⁸

⁶ See *id.*

⁷ *Id.*, Summary Page.

⁸ *Id.*, Schedules C & D.

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LEGAL DISCUSSION

Individuals may contribute up to \$2,700 per election to a candidate committee,⁹ and multicandidate committees may contribute up to \$5,000 per election to a candidate committee.¹⁰ The primary and general elections are considered separate elections with their own contribution limits.¹¹ The Act prohibits persons and political committees from knowingly accepting excessive contributions.¹²

Contributors may designate their contributions for the primary election or for the general election.¹³ If a contributor does not specifically designate an election, the committee must apply the contribution to the next election.¹⁴ However, if a person makes a contribution after the primary election but before the general election, and the contribution would be excessive if applied to the general election, the committee may redesignate the excessive amount of the contribution to the primary, provided the excessive portion does not exceed the committee's net debts outstanding from the primary.¹⁵

The amount of a committee's net debts outstanding is calculated "as of the date of the election."¹⁶ The calculation is based on the committee's "total amount of unpaid debts and obligations incurred with respect to [the] election" less the "total cash on hand available to pay those debts and obligations."¹⁷ The Commission has stated that, in calculating net debts

⁹ 52 U.S.C. § 30116(a)(1)(A); Price Index Adjustments for Contribution and Expenditure Limitations and Lobbyist Bundling Disclosure Threshold, 82 Fed. Reg. 10,904, 10,906 (Feb. 16, 2017).

¹⁰ 52 U.S.C. § 30116(a)(2)(A).

¹¹ Advisory Op. 1984-32 (Pease) at 2 ("This limitation applies separately with respect to the primary election and the general election.").

¹² 52 U.S.C. § 30116(f).

¹³ 11 C.F.R. § 110.1(b)(2)(i).

¹⁴ *Id.* § 110.1(b)(2)(ii).

¹⁵ *Id.* § 110.1(b)(5)(ii)(C).

¹⁶ *Id.* § 110.1(b)(3)(ii).

¹⁷ *Id.*

outstanding for a primary, the "total cash on hand available" need not include contributions designated for the general.¹⁸

Here, Respondents have plainly accepted contributions in excess of the lawful limits and likely misreported their activity. Under any reading of the July Quarterly Report, Respondents have committed violations of the Act.

A. Facially Excessive Contributions

Following the primary election, Respondents accepted contributions above \$2,700 for the general election (or above \$5,400 total) from Earl Kendrick, Randy Kendrick, James Haslam, Natalie Haslam, Dennis Menholt, Linda Menholt, Harvey Golub, Holloway Frost, and Kathaleen Wall.¹⁹ Respondents have not done anything to redesignate the excessive portions of these contributions, leaving everything designated for the general.²⁰ Therefore, Respondents have accepted excessive contributions from these nine people in connection with the general, in violation of the Act.²¹

The contribution from Stephen Langlas is another instance of Respondents accepting a plainly excessive contribution. Langlas contributed \$8,100 to Respondents, which Respondents are in the process of redesignating or reattributing, according to the July Quarterly Report.²² However, even if Respondents redesignate \$2,600 to 2014 debt retirement (the maximum contribution allowed during the 2014 election cycle),²³ \$2,700 to the 2018 primary, and \$2,700

¹⁸ AO 1984-32 at 3; FED. ELECTION. COMM'N, CAMPAIGN GUIDE FOR CONGRESSIONAL CANDIDATES AND COMMITTEES at 27 (June 2014).

¹⁹ See Matt Rosendale for Montana, FEC Form 3, July Quarterly Report, Schedule A.

²⁰ See *id.*

²¹ See 52 U.S.C. § 30116(f).

²² See Matt Rosendale for Montana, FEC Form 3, July Quarterly Report, Schedule A.

²³ *Contribution Limits for 2013-2014*, FED. ELECTION COMM'N, <https://www.fec.gov/updates/contribution-limits-2013-2014/> (last visited July 26, 2018).

to the 2018 general, Langlas' contribution is still excessive by \$100. Respondents do not appear to be refunding the \$100; therefore, they are violating the Act.²⁴

B. Improper Redesignations

Respondents report redesignating eighteen contributions received after June 5, 2018 to the 2018 primary.²⁵ This is improper for several reasons. First, it is not clear whether Rosendale has enough debt from his 2018 primary election to equal the amount his campaign has designated to it. Second, while Respondents may seek a donor's permission to redesignate a contribution to retire primary election debt to the extent there are net debts outstanding, they may not redesignate a contribution to the primary election, as they have done here.²⁶ Identifying the contributions as redesignated for the "primary," rather than for "primary debt," suggests that Respondents did not seek and obtain the proper redesignations here. And, even if they did, Respondents are misreporting the redesignations by showing them for the "primary" instead of "primary debt" retirement.

C. Reporting Errors

Finally, it appears that Respondents have made multiple reporting errors. For those contributions identified in Subsection A that are facially excessive, Respondents had an obligation to include "[a] statement noting that the legality of the contribution[s] in question."²⁷ By failing to include this statement in connection with the nine contributions for which they have not sought redesignations, Respondents are violating their reporting obligations.²⁸

²⁴ See 52 U.S.C. § 30116(f).

²⁵ See Matt Rosendale for Montana, FEC Form 3, July Quarterly Report, Schedule A.

²⁶ 11 C.F.R. § 110.1(b)(2)

²⁷ See 11 C.F.R. § 103.3(b)(5).

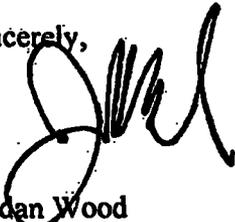
²⁸ See *id.*

In addition, in the unlikely scenario that Respondents actually have net debts outstanding from the primary, they are incorrectly reporting their redesignations. Respondents' reporting is erroneous because they should have been reporting the redesignations for "primary debt retirement," as they did for the contributions redesignated to "2014 debt retirement."²⁹

REQUESTED ACTION

As we have shown, Respondents appear to have violated the Act and Commission regulations by accepting excessive contributions following the June 5, 2018 primary election and failing to properly report their activities. As such, we respectfully request that the Commission immediately investigate these violations, require Respondents to refund the excessive contributions, enjoin Respondents from further violations, and fine Respondents the maximum amount permitted by law.

Sincerely,



Jordan Wood
Political Director
End Citizens United

SUBSCRIBED AND SWORN to before me this 14th day of August 2018.



Notary Public

My Commission Expires:

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²⁹ See id.

MELINDA D. EDMUNDS
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires October 31, 2018



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